

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1628 of 1996

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE G.D.KAMAT

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BACHUBHAI MANGABHAI

Versus

STATE OF GUJARAT

Appearance:

THROUGH JAIL for Petitioner

PUBLIC PROSECUTOR for Respondent No. 1

CORAM : THE CHIEF JUSTICE G.D.KAMAT

Date of decision: 05/12/96

ORAL JUDGEMENT

Rule. To be heard forthwith.

Petitioner Bachubhai Mangabhai Patel is incarcerated in Central Jail, Vadodara pursuant to his conviction under Section 302 and sentenced to life imprisonment. He moved an application for furlough, which was rejected by the Jail Authorities on the ground that the Police had submitted a report adverse to him that in the event he is released on furlough, he is likely to disturb the peace. It was also rejected on the ground that since appeal against his conviction and sentence is pending in this High Court, his application for furlough cannot be considered. A learned single Judge of this Court has taken a view that mere pendency of the appeal in the High Court cannot come in the way of the Jail Authorities in granting furlough and the decision of the Division Bench is restricted to the power of the authorities to grant parole during the pendency of the appeal. The fact remains that the petitioner has undergone a substantive sentence of nearly seven years, which cannot be overlooked and accordingly, the Jail

Authorities are directed to reconsider his application for furlough within 15 days from today. Rule accordingly is made absolute, as indicated.

(apj)